



# COMMISSION NEWS

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ARIZONA CORPORATION COMMISSION, 1200 W. WASHINGTON, PHOENIX, AZ 85007

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TO: EDITORS, NEWS DIRECTORS  
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## **RESTITUTION AND PENALTIES ORDERED AGAINST TUCSON PROMOTERS OF COLORADO OUTLET MALL DEVELOPMENT**

PHOENIX – Three residents of Tucson and their respective businesses signed consent orders that were approved by the Commissioners in their Tuesday Open Meeting. The Commission ordered the individuals to cease and desist from the sale of unregistered securities and from selling fraudulent securities. They are required to pay \$5,286,160 restitution, with interest, to the individual investors along with penalties to the State totaling \$110,000. Involved in the order are: Wendell T. “Ted” Decker and his businesses, Oxford Development LLC and CNT Family Fun Outlets, Inc.; Keith B. “Skip” Davis and his company Keith B. Davis Inc.; and Charles W. “Chuck” Testino, Jr. and his company Arizona Investment Advisors, Inc. Approximately 110 private investors purchased 124 promissory notes totaling \$5,286,160.

The orders state that the respondents sold unregistered promissory notes from January 1995 to December 1999. The money was to be used to obtain financing for the development of an outlet mall in Dacono, Colorado. The mall was described as the Dacono Factory Outlet Stores or the Dacono Factory Outlet Mall and Sports Arena. The investments offered interest rates ranging, in most cases, from 15% to 20% per year.

According to the orders, the maker of the notes was Charles Ray Stedman, also of Tucson, through his business entity, Profutura, LLC. Stedman was a partner with Decker in Oxford Development, LLC. Oxford owned the property, which was and still remains grassland property in Dacono. Decker, a Tucson developer, planned the Dacono outlet mall project. Decker signed the notes as managing member of Oxford.

The order shows that by about March 1996, the project owners had exhausted their personal sources of

funds and were still seeking construction financing. Decker and Stedman approached Davis to raise money from private investors for interim financing to keep the project moving until the project owners could close on a construction loan. Davis approached Testino to assist in soliciting private investor funds for the Dacono Project to keep the project "alive" until the principals could secure funding. The principals of the project, Decker and Stedman, agreed to pay Davis and Testino commissions of 10% of all investor funds secured and offered an equity interest in the project.

According to the orders, prospective investors were told that the investment was a short-term loan and that they would be paid in full at the close of escrow on a construction loan. In fact, there were a series of construction loan letters of interest and commitment letters that never materialized and, to date, the principals have not succeeded in negotiating construction financing for the project. The respondents represented that the notes – and any extensions, renewals or rollovers of the notes – were secured by a deed of trust on a portion of the project property. In fact, only a few of the original investors in 1996 and early 1997 and none of the investors in 1998 and 1999 were named as beneficiaries on recorded deeds of trust. The property that was supposed to be pledged to private investors was utilized instead as security to obtain financing from institutional "bridge" lenders.

The orders also state that the respondents failed to disclose to investors the risks involved with this development project. The risks included: the uncertainty of getting construction financing; the repeated failed attempts to obtain construction financing and bond funding; the costs of attempts to obtain such financing; and Stedman's inability to repay the notes if construction financing was not secured. Decker, Davis and Testino also failed to disclose to investors background information concerning the promoters, including the fact that Decker filed bankruptcy in 1989.

Investors were allegedly told that their funds would be used for interim financing until construction financing was in place to develop a project, and that their notes would be paid upon the due date or at the close of the construction financing. Investor funds allegedly were used for:

- attorney fees and loan fees for failed funding attempts;
- attempts to obtain tax benefits for the future owners of the project;

- redeeming prior investors' defaulted notes;
- interest payments to early investors with secured loans;
- profits to bridge lenders;
- Decker's living expenses, and
- Decker's and Stedman's travel expenses.

Stedman requested a hearing and has not signed a consent order. Decker, Davis and Testino consented to the penalties and order of restitution. Additionally, Decker and Davis agreed not to apply for registration as a securities salesman or dealer or apply for an investment adviser or adviser representative in Arizona for at least five years or until all restitution and penalties are paid. Testino was a registered securities salesman at the time he sold the notes to investors. His consent agreement bars him from obtaining Arizona registration or licensure at any time in the future.

Mark Sendrow, Director of the Commission's Securities Division warned that promissory notes are among the riskiest investment products and are a frequent source of fraud. "We urge the public to stay away from promissory notes. Sellers often promise high returns and low risk but that's not how investing works – high returns come from high risk investments."

Investors can call the Commission's Securities Division to check to see if an investment vehicle is properly registered or whether the salesperson is licensed or registered in Arizona. Call the Division at 602-542-4242 or, toll-free outside the Phoenix area, at 1-877-811-3878.

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